

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

NATIONAL PASTEURIZED EGGS, INC.
and NATIONAL PASTEURIZED EGGS, LLC,

Plaintiffs,

v.

ORDER

10-cv-646-wmc

MICHAEL FOODS, INC., ABBOTSFORD
FARMS, INC., CRYSTAL FARMS
REFRIGERATED DISTRIBUTION COMPANY,
and M.G. WALDBAUM COMPANY,

Defendants,

and

MICHAEL FOODS, INC.,

Plaintiff,

v.

11-cv-534-wmc

NATIONAL PASTEURIZED EGGS, INC.,

Defendant.

The parties have already submitted Rule 26(a)(3) disclosures, motions in limine and proposed voir dire and instructions. In anticipation of the upcoming trial, the court sets forth the following deadlines and guidelines on additional pre-trial submissions. Counsel should take note of the bolded additions to the obligations set forth in the preliminary pretrial order.

- 1) On or before Friday, May 11, 2012, the parties shall provide opposing counsel and the court:

- a) Responses to motions in limine.
 - b) Objections to exhibits.
 - c) Responses to opposing parties' voir dire questions, verdict forms, and jury instructions.
- 2) On or before Wednesday, May 16, 2012, the parties shall provide opposing counsel and the court:
- a) A short, written narrative statement of each expert's background and experience. These statements will be read to the jury and no proof will be received on the matters covered unless an objection to the narrative statement is filed.
 - b) Objections and counter designations to proffered deposition designations.
- 3) Counsel are directed to consult in good faith and reach resolution on the admissibility of exhibits to the extent possible. Each party shall file copies of any *contested* exhibits they intend to offer with the court by 12:00 p.m. on Thursday, May 17, 2012.
- 4) The final pre-trial conference shall be held on Tuesday, May 22, 2012 at 2:00 p.m. (Please note that the time has been moved from 4:00 p.m. to 2:00 p.m.)
- 5) As to NPE's defenses that Michael Foods' infringement claims are barred by the doctrine of laches or equitable estoppel and its claim for a declaratory judgment that Michael Foods' patents are unenforceable because of inequitable conduct, the parties shall file and serve the following on or before Wednesday, May 30, 2012:
- a) A written stipulation of any uncontested facts;
 - b) Names of any witnesses or deposition testimony not included in the parties' earlier submissions;
 - c) Schedules of exhibits not included in the parties' earlier submissions;
 - d) Proposed findings of facts;
 - e) Proposed form of special verdict; ¹

¹ Please refer to the order in non-jury cases (dkt. #23, pp.38-41) for additional guidance as to the substance of the submissions.

- 6) On or before Friday, June 1, 2012, the parties *may* submit trial briefs to the court. If submitted, copies of briefs must be provided to opposing counsel.
- 7) After the jury retires to deliberate on liability, the court will hear additional testimony and other evidence, if any, that the parties choose to proffer specific to the equitable defenses and inequitable conduct claim.
- 8) The trial shall commence Monday, June 4, 2012 at 9:00 a.m. with voir dire and jury selection. The parties shall meet with the court at 8:00 a.m. that morning to address final issues that may be resolved before empanelling the jury.

Entered this 9th day of May, 2012.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge